

No. 11028

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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CHESTER BOWLES, Administrator of the Office of Price Administration,

Appellant,

vs.

NORTHWEST POULTRY AND DAIRY PRODUCTS COMPANY, an Oregon Corporation, and C. W. NORTON, President,  
Appellees.

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SUPPLEMENTAL  
Transcript of Record

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Upon Appeal from the District Court of the United States  
for the District of Oregon

FILED

OCT 3 - 1945

PAUL P. O'BRIEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD

F. E. WAGNER and  
CECELIA P. GALLAGHER,

1215 Bedell Building, Portland, Oregon,  
and

W. DUNLAP CANNON, Jr.,

1355 Market Street, San Francisco, Calif.  
for Appellant.

B. G. SKULASON,

Public Service Building, and

WILBER HENDERSON,

Porter Building, both Portland, Oregon,  
for Appellees.

In the District Court of the United States  
in the District of Oregon

No. 2565—Civil

CHESTER BOWLES, Administrator of the Of-  
fice of Price Administration,

Applicant,

vs.

NORTHWEST POULTRY AND DAIRY  
PRODUCTS COMPANY, an Oregon Cor-  
poration, and C. W. NORTON, President,  
Respondent.

APPLICATION FOR AN ORDER REQUIR-  
ING RESPONDENT TO PERMIT IN-  
SPECTION OF INVENTORY AND  
RECORDS

Chester Bowles, Administrator of the Office of Price Administration, applicant herein, applies to this Honorable Court, pursuant to Section 202 (b) of the Emergency Price Control Act of 1942 as amended by the Stabilization Extension Act of 1944 (Pub. L. No. 421, 77th Cong., 2nd Sess., 56th Stat. 23, as amended by Pub. L. No. 383, 78th Cong., 2nd Sess.) for an order requiring Northwest Poultry and Dairy Products Company, a corporation, and C. W. Norton, its president, to permit inspection and copying by authorized employees of the Office of Price Administration of all purchase and sales records and disbursement records covering the sale and purchase by the Northwest Poultry and Dairy Products Company, of all turkeys from May 8,



1944, to and including August 10, 1944, as described in the Inspection Requirement herein referred to. In support thereof, applicant respectfully represents as follows:

### I.

Respondent, Northwest Poultry and Dairy Products Company, is an Oregon corporation doing business at 232 S. E. Oak Street, Portland, Oregon, within the jurisdiction of this court. C. W. Norton is the president of said corporation.

### II.

Jurisdiction of this proceeding is conferred upon this Court by Section 202(e) of the Emergency Price Control Act of 1942 as amended by the Stabilization Extension Act of 1944 (Pub. L. No. 421, 77th Cong. 2nd Sess., 56th Stat. 23, as amended by Pub. L. No. 383, 78th Cong., 2nd Sess.) hereinafter referred to as the Act.

### III.

Under the provisions of Sections 202(a) and (b) of the Act the Administrator is authorized to obtain information by oath, affirmation, or otherwise, and to inspect and copy records and other documents, and inspect inventories, as he deems necessary or proper to assist him in the administration and enforcement of the Act and the regulations, orders or price schedules issued thereunder.

### IV.

On or about the 1st day of August, 1944, the applicant, through his duly authorized attorney, de-

terminated that in the enforcement and administration of the Act and of Revised Maximum Price Regulation 269, as amended (7 F. R. 10708) issued by the applicant pursuant to the Act on December 18, 1942, and of Regional Order G-93 (F.R. 9-5287) issued on May 17, 1944, an investigation was necessary to discover whether or not respondents had complied and were complying with the provisions of the Act and of said orders.

Such an investigation was commenced on or about August 1, 1944, in the course of which duly authorized employees of the Office of Price Administration orally requested respondents to permit them to inspect and copy their records of purchase, sale, and disbursements, covering the sale and purchase by respondents of all turkeys purchased and sold by them between the dates of May 8, 1944, and August 10, 1944, which records were in their control and possession and required by the regulation to be made and kept by the respondents. On that occasion respondents, and each of them, refused to permit either the inspection or copying of said records or any part thereof.

## V.

Thereafter on August 9, 1944, the applicant issued an Inspection Requirement, a copy of which is attached hereto, marked exhibit A, directing the respondents to permit D. E. Rodeback, as the duly authorized representative of the Office of Price Administration, to inspect and to copy all or any part of the following documents: All purchase and

sales records and disbursements records covering the sale and purchase by the Northwest Poultry and Dairy Products Company of all turkeys from May 8, 1944, to and including August 10, 1944.

Said Inspection Requirement was personally served on C. W. Norton, individually and as president of the respondent company, on the 14th day of August, 1944, at 232 S. E. Oak Street, Portland, Oregon, as shown by the affidavit of D. E. Rodeback, attached hereto, marked Exhibit B, and by this reference made a part thereof. Respondents, as further shown by this affidavit, refused to permit the inspection and copying of records as required. Since that time, although numerous demands have been made thereupon, respondents have not at any time permitted the inspection or copying their records.

## VI.

The applicant is informed and believes, and therefore alleges that all of the records described in said Inspection Requirement constitute evidence which is competent, relevant and necessary in the said investigation and that such investigation is essential to the enforcement and administration of the Act and of Revised Maximum Price Regulation 269, as amended, and of Regional Order G-93. Applicant is informed and believes, and therefore alleges that said records described in said Inspection Requirement are now and at all times herein mentioned have been within the possession and control of the respondents.

Wherefore the applicant, Chester Bowles, as Ad-

ministrator of the Office of Price Administration, respectfully prays that

(a) An order to show cause be issued forthwith directing the respondents to appear before this Court on a day certain, to be fixed in said order, and show cause, if any there be, why an order should not issue requiring the respondents to permit the inspection and copying by authorized employees of the Office of Price Administration of the records described in said Inspection Requirement at such time as this Court may order; and

(b) The application of such other and different relief as may be necessary or appropriate in the premises.

F. E. WAGNER

District Enforcement Attorney

CECELIA P. GALLAGHER,

Enforcement Attorney

### EXHIBIT A

United States of America  
Office of Price Administration

### INSPECTION REQUIREMENT

To: Northwest Poultry and Dairy Products Company of Portland, Oregon, by C. W. Norton, President.

In connection with an investigation to assist the Price Administrator, Office of Price Administration, in the administration and enforcement of the Emergency Price Control Act of 1942, as amended, and especially of the following:

Revised Maximum Price Regulation 269 and  
Regional Order G-93.

You Are Hereby Forthwith Required to Permit  
D. E. Rodeback, representative of the Office of  
Price Administration, to inspect at your place of  
business the following documents:

All purchase and sales records and disburse-  
ments records covering the sales and purchase by  
the Northwest Poultry and Dairy Products Com-  
pany of all turkeys from May 8, 1944, to and in-  
cluding August 10, 1944, and to permit the afore-  
said representative of the Office of Price Adminis-  
tration to copy all or any part of said documents,  
and

You Are Further Required to Permit the afore-  
said representative to inspect the following:

Now in your possession or under your control.

Issued this . . . . day of August, 1944, at Wash-  
ington, D. C.

/s/ CHESTER BOWLES,

Price Administrator, Office of  
Price Administration

Sections 202(a) and 202(b) of the Emergency  
Price Control Act of 1942 (Public Law 421 77th  
Cong., Chapter 26, 2nd Sess.) as amended, author-  
ize the Price Administrator to make such studies  
and investigations of price and rent matters as he  
deems necessary and proper to assist him in pre-  
scribing any regulation or order under the Act, or  
in its administration or enforcement, and to re-  
quire any person who is engaged in the business



of dealing with any commodity, or who rents or offers to rent or acts as broker or agent for the rental of any defense housing accommodations, to permit the inspection and copying of records and other documents, the inspection of inventories, and the inspection of such housing accommodations. Under Section 4(a) of the Act, wilful refusal to obey this inspection requirement is a violation of the law, and under Section 205(b) any person guilty of such violation will be liable to a fine of not more than \$5000 or to imprisonment for not more than one year, or both. Under Section 205(a) such violation may also cause the issuance of a court order, the disobedience of which will render a violator subject to punishment for contempt of court.

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## EXHIBIT B

### AFFIDAVIT

I, D. E. Rodeback, being duly sworn, depose and say:

1. I am a duly authorized investigator of the Office of Price Administration. I make this affidavit in support of the applicant's petition herein for an Order requiring respondent to permit inspection of Inventory and Records.

2. On August 1, 1944, Ernest Schallinger, Regional Commodity Investigator for the Office of Price Administration, and I went to the place of business of the Northwest Poultry and Dairy Prod-

ucts Company at 232 South East Oak Street, Portland, Oregon, and talked with C. W. Norton, president of the Northwest Poultry and Dairy Products Company, which company is hereinafter referred to as the Corporation. Ernest Schallinger and I identified ourselves to C. W. Norton as investigators for the Office of Price Administration. I am known to C. W. Norton and have formerly, on numerous occasions, talked with him in my capacity as such investigator.

3. During the course of our conversation with C. W. Norton I requested permission from him to inspect the records of the corporation which showed all purchases and sales and disbursements covering the sale and purchase by the Northwest Poultry and Dairy Products Company of all turkeys from May 8, 1944 to and including the date of my request. We further requested permission to copy such records. Mr. Norton stated to us that he could tell us anything we wanted to know but that he did not want us either to look at or to copy the records.

4. On August 3, 1944, I visited the corporation offices again and requested permission of C. W. Norton to inspect and copy the records described in paragraph 3 above. At that time Mr. Norton asked for additional time in which to talk to his attorneys. On August 4, 1944, at 10 o'clock a.m. I returned to the office of the corporation and was told by Mr. Norton that he had not completed his discussions with his Washington, D. C., attorneys and his Portland attorney.

5. On August 14, 1944, I served on C. W. Norton, as President of the corporation, an inspection requirement signed by Chester Bowles as Administrator of the Office of Price Administration, requiring the corporation and C. W. Norton, as President thereof, to permit me to inspect at its place of business the following documents: All purchase and sales records and disbursements records covering the sale and purchase by the Northwest Poultry and Dairy Products Company of all turkeys from May 8, 1944, to and including August 10, 1944, and to permit me to copy all or any part of said documents. That C. W. Norton, President of said corporation, did at that time, and has since consistently refused to permit the copying of any of the above described documents and records.

6. That the business of the corporation is such that the number of transactions are extremely numerous and cover a long period of time. That each document would cover only a small portion of a day or a week's business and it would be impossible to retain in memory sufficient details to establish the extent of any violations. I have good cause to believe that violations of both Revised Maximum Price Regulation 269 and Regional Order G-93 have been committed by the said corporation by the failure of the corporation to deduct from its payments to producers of turkeys the full charges provided by Regional Order G-93 for dressing and head wrapping of turkeys sold by producers to the said corporation.

DONALD E. RODEBACK



Subscribed and sworn to before me this 8th day of September, 1944.

(Seal)                      W. A. STOCKMAN,  
Notary Public in and for the  
State of Oregon

My commission expires January 20, 1947.

[Endorsed]: Filed Sept. 9, 1944.

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[Title of District Court and Cause.]

SUPPLEMENTAL DESIGNATION  
OF RECORD

Comes now the plaintiff above named and as appellant in the above entitled action submits the following as his Supplemental Designation of Record on the appeal of said matter to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Application for order requiring respondent to permit inspection of inventory and records.
2. This supplemental designation.

Dated at Portland, Oregon, this 27th day of August, 1945.

CECELIA P. GALLAGHER,  
of Attorneys for Appellant.

[Endorsed]: Filed August 30, 1945.

## CLERK'S CERTIFICATE

United States of America,  
District of Oregon—ss.

I, Lowell Mundorff, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing pages numbered from 1 to 8 inclusive constitute the additional transcript of record on appeal in a cause numbered Civil 2565, in which Chester Bowles, Administrator, Office of Price Administration, is plaintiff and appellant, and Northwest Poultry and Dairy Products Company, an Oregon Corporation, and C. W. Norton, President, are defendants and appellees; that the said transcript has been prepared by me in accordance with the supplemental designation of record filed by the appellant and in accordance with the rules of this court; that I have compared the foregoing transcript with the original record thereof and that it is a full, true and correct transcript of the record and proceedings had in said court in said cause, in accordance with the said supplemental designation, as the same appears of record and on file at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court in Portland, in said District, this 1st day of September, 1945.

(Seal)                      LOWELL MUNDORFF,  
Clerk.

By F. L. BUCK,  
Chief Deputy.

[Endorsed]: No. 11028. United States Circuit Court of Appeals for the Ninth Circuit. Chester Bowles, Administrator of the Office of Price Administration, Appellant, vs. Northwest Poultry and Dairy Products Company, an Oregon Corporation, and C. W. Norton, President, Appellees. Supplemental Transcript of Record. Upon Appeal from the District Court of the United States for the District of Oregon.

Filed September 4, 1945.

PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

